IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.5808 OF 2005

Vijayalaxmi Malikarjun Savalgi ..Petitioner.

Vs.

The State of Maharashtra & Ors. ..Respondents.

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Mr.Amit Sale for the Petitioner.

Mr.P.P.Kakade, AGP for Respondent No.1.

Ms.Deepa Chavan i/b M/s.Little& Co. for Respondent Nos.2 and 3.

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CORAM : F.I.REBELLO &

DR.D.Y.CHANDRACHUD, JJ.

23rd September, 2005.

P.C. :

1. Rule. Heard forthwith.

2. The Petitioner had appeared and passed 12th Standard Examination in February 2004. As according to the Petitioner she did not secure the marks as expected, she applied for revaluation in

five subjects. The Petitioner was informed that there was no change in the marks of the Petitioner. Subsequent to that she applied for admission to the D.Ed. College and was admitted on 12th August, 2004 and since then has been attending regularly the First Year of D.Ed. She had appeared for internal examination, project work as also various training programmes included in syllabus of D.Ed. diploma.

3. It appears that Respondent No.3 by a communication of 8th July, 2005 intimated to the Principal, D.Ed. College that two students from D.Ed. College upon scrutiny of the answer sheets were found to have indulged in misconduct in the examination held in February 2004. On enquiry being conducted, the result of the said students of 12th Standard examination has been cancelled. The Petitioner is one such student and that she was restrained from appearing in 12th Standard examination. This communication was intimated by a letter dated 8th July, 2005 to the Principal. According to the Petitioner she has not received any communication from Respondent No.3.

4. We have considered the contentions as urged on behalf of the Petitioner. The effect of communication dated 8th July, 2005 was to give an intimation, that apart from the results of the Petitioner being cancelled, the Petitioner was prohibited from appearing in further 12th Standard examination till October 2004. In other words, after October 2004, the Petitioner could have appeared for the examination. The communication was on 8th July, 2005 which would mean that though the Petitioner could have appeared for the examination to be held in February/March 2005, she was prevented from doing so on account of non-communication and the punishment, if any, would be harsher than what the Board had taken. Considering these facts and though we are not interfering with the decision taken by the Board in debarring the Petitioner, considering these peculiar facts we think that ends of justice will be met more so considering that the Petitioner has now completed one year of the D.Ed. course, that she is allowed to continue the D.Ed. Course. In the similar circumstances, another Bench of this Court in Shivaleela Laxman Gurav v. The State of Maharashtra and Others decided on 18th August, 2005

in Writ Petition 5000 of 2005 had similarly adopted the similar course.

5. Considering the above, we do not interfere with the findings of Respondent No.3 that the Petitioner was guilty. However, considering that she was prohibited from appearing for the March 2005 examination on account of non-communication, we permit the Petitioner to continue her studies and to that extent the communications cancelling the results of 12th Standard examination are set aside. Rule is made absolute accordingly. There shall be no order as to costs.

6. We make it clear that this order has been passed on the special facts of this case and will not act as a precedent in future.

7. On a copy of this order being served on the Principal of D.Ed. College, the Principal will act in terms of the order passed by this Court.

(F.I.REBELLO, J.)

(DR.D.Y.CHANDRACHUD, J.)